

REMARKS

Claim 9 has been amended to address the language objection. And, claim 1 has been amended to better define the claimed invention and better to distinguish the claimed invention from the prior art. In particular, independent claim 1 has been amended to clarify that the side wall is distinct from the bottom wall 1(a) of Williams which, in Williams' case, supports the piezo electric unit. Applicants' independent claim 1 requires that the piezoelectric element is attached at one end to the side wall of the casing. Williams on the other hand has a piezoelectric element that is sandwiched between members 3 attached to the housing 1 bottom/rear wall and the ring 6, which is in turn attached to the diaphragm 7. Thus, Applicants' independent claim 1 is a structurally and functionally different (see Williams' discussion in the left hand column of page 2). Accordingly, independent claim 1 and claims 8, 10 and 12 which depend or are linked to claim 1, cannot be said to be anticipated by Williams.

Turning to the rejection of claims 2 and 3 as obvious from Williams in view of Christensen, claims 2 and 3 are dependent on claim 1. The deficiencies of Williams vis-à-vis claim 1 are discussed above. It is not seen that Christensen supplies the missing teachings to Williams to achieve or render obvious claim 1 or claims 2 and 3 which depend thereon. The Examiner cites Christensen as teaching a piezoelectric element fixed to an inner wall of a side wall of the casing. However, affixing a piezoelectric element to the side walls as taught by Christensen would be incompatible with the teachings of Williams. Thus, one skilled in the art would not have to combined Williams and Christensen.

The rejection of claim 7 as obvious from Williams in view of Sawyer likewise is in error. Claim 7 is dependent on claim 1. The Examiner cites Sawyer as teaching a piezoelectric element having laminated structure in which conductive layers and piezoelectric material layers

are alternately laminated. Even assuming *arguendo* Sawyer is as the Examiner represents, Sawyer does not supply the missing teachings to Williams as above discussed to achieve claim 1 or claim 7 which depends thereon.

Turning next to the rejection of claims 9 and 11 as obvious from Williams, claims 9 and 11 depend from or are linked to claim 1. As discussed above, Williams neither teaches nor suggests the construction required by claim 1. Accordingly, claim 9 and 11 which depend on claim 1 or are linked to claim 1 cannot said to be obvious from Williams.

Turning finally to the non-statutory double patenting rejection, as the Examiner no doubt is aware, the test of obviousness-type double patenting rejection requires a two step analysis. Step one is to determine, by examining the claims, what has been patented. Step two is to determine whether there exists a "patentable difference" between the claims of the first patented invention, i.e., the claims of the '956 patent, and the claims of the presently pending application. If the claims of the second invention define more than an "obvious variation", the inventions are patentably distinct, and there is no double patenting. Here, more than merely having minor differences in claim language, the claims of the presently pending application include elements for features not found in the '956 patent, and vice versa. For example, independent claim 1 of the '956 patent requires that the piezo activator is substantially equal to the inner diameter of the case. Independent claim 3 of the '956 includes a similar requirement. None of Applicants' pending claims require this. Thus, Applicants' pending claims could be practiced without infringing the claims of the '956 patent. In like manner, independent claim 1 of the subject application requires that the piezoelectric element be attached at one end to a side wall of the casing. None of the claims of the '956 patent require that the piezoelectric element

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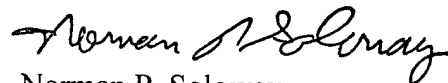
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be fixed at one end to a side wall of the casing or "case" as referred to in the '956 patent claims. In fact, dependent claim 5 of the '956 patent requires that both ends of piezoelectric actuators be secured to the case. Thus, practice of the '956 patent claims would not infringe any of the claims of the instant claimed invention. Thus, the claims of the instant claimed invention cannot be said to be "obvious variance" of the claims of the '956 patent, and the obviousness-type double patenting rejection is in error.

Having dealt with all the objections raised by the Examiner, the application is believed to be in order for allowance.

In the event there are any fee deficiencies or additional fees are payable, please charge them (or credit any overpayment) to our Deposit Account Number 08-1391.

Respectfully submitted,



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